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SUBJECT: UN SPECIAL RAPPORTEUR ON HUMAN RIGHTS VISITS  
TUNISIA

Classified by Ambassador Gordon Gray for reasons 1.4 (b) and (d).

¶1. (C) Summary: Martin Scheinin, the UN Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism, visited Tunisia January 22-26, the first such visit since 1999. At the conclusion of his visit, he told the Ambassador and other foreign diplomats that he had received generally satisfactory cooperation from the GOT, including meetings with the Ministers of Foreign Affairs and Justice, and was able to gain access to detention facilities and see prisoners in their cells. Sheinin's greatest concern was the potential for mistreatment of terror suspects in the initial stages of their detention, when they are held incommunicado in secret facilities. He recommended several concrete steps Tunisia could take to improve its practices, including guaranteeing detainees' access to lawyers from the outset of their detention, and amendments to existing laws. Tunisia's pro-government media misrepresented Sheinin's brief

press release as a glowing seal of approval for Tunisia's human rights record. End summary.

¶2. (SBU) Martin Scheinin, the UN Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism, briefed members of the foreign diplomatic corps at the conclusion of his January 22-26 visit to Tunisia. The event, hosted by the Ambassador of Spain, was attended the Chiefs of Mission of the EU, Switzerland, Turkey, Japan, and the U.S. (notably absent was the Ambassador of France - who sent his deputy chief of mission.).

¶3. (C) Scheinin underlined the importance of human rights in Tunisia's external relationships, particularly in the context of Tunisia's request for "advanced status" in its EU Association Agreement talks. Scheinin described his visit as a "break-through" in that he was the first Special Rapporteur to visit Tunisia since 1999. The GOT's acceptance of his visit was linked both to Tunisia's interest in "advanced status" and its turn under the Universal Periodic Review process by the UN Human Rights Commission, Scheinin believed.

¶4. (C) Scheinin said he had received satisfactory cooperation from the Tunisian Ministries of Foreign Affairs and Justice, and less from the Ministry of the Interior. Although cooperation from the head of Tunisia's penitentiary system was "slow at best," he had managed to gain access to detainees, in their cells. Schenin twice saw the two detainees returned to Tunisia from U.S. custody in Guantanamo, but they declined to speak with Schenin, likely due to their own bitterness and/or due to their distrust of western officials, he speculated.

¶5. (C) Sheinin pointed to the lack of transparency in the custodial process for detainees facing terror charges, and questions about judicial police methods for questioning detainees and building cases against them, as the most serious problems he encountered during his visit. Terror suspects are typically held incommunicado by the judicial

police soon after their arrest, in still unidentified facilities, and it is at this point that they are at highest risk for mistreatment.

¶16. (C) Terror suspects are generally processed through the Bachoucha detention facility, which Shenin was not able to access, in which they are held in "garde a vue" (preliminary detention) status in which they are held incommunicado for renewable six day periods. Shenin was not certain whether the ICRC, which is permitted to inspect detention facilities, had had access to Bachoucha.

¶17. (C) Scheinin reported that the GOT had previously maintained that it is holding 250-300 suspects in custody under the 2003 anti-terrorism law. Tunisian NGOs believed the number was significantly higher, Shenin noted, but he did not specify any counter statistics. The Ministry of Justice told Shenin that 1,253 Tunisians had been either tried or sentenced under the terrorism law, a figure which he said was closer to NGO estimates and could be accurate based on his observations.

¶18. (C) Tunisian judges who met with Shenin noted that the provision in the 2003 anti-terror law outlawing membership in unrecognized organizations was typically the simplest route to prosecute terror suspects. Terror suspects are often charged with offenses under the penal code when evidence of terror links is insufficient, he added.

¶19. (C) Despite his catalogue of concerns, Scheinin said he nonetheless saw some positive aspects of Tunisia's approach. The 2003 anti-terrorism law was amended in 2009 to remove incitement, which had been too vaguely defined and misapplied, he implied. He commended the GOT's efforts to

attack root causes of extremism, including efforts to alleviate poverty and improve education.

¶10. (C) Sheinin concluded his briefing by offering two recommendations: First, all law enforcement personnel should be required to wear name tags, to counter impunity for human rights offenders, and second, he recommended the installation of video cameras, which can not be turned off, at all detention facilities, to provide a record of occurrences and comings and goings of detainees.

¶11. (C) Pressed by the Ambassador for more recommendations, Sheinin suggested the strengthening of Tunisian laws against torture, ensuring detainees' access to lawyers from the outset of their arrest rather than at the end of their "garde a vue" detention, and modifying the legal definition of terrorism. Sheinin also urged Tunisia to ratify the optional protocol to the UN Convention Against Torture.

¶12. (C) Sheinin said he had already issued a brief, diplomatically-worded press release, and added that he would likely issue an interim report of his findings in March. Under the terms of the Universal Periodic Review, the GOT would have the option to respond to an Arabic copy of the report. Sheinin allowed that, with the incorporation of the GOT's response, the final report might not be published until December 2010. Commenting on the presentation, the EU Ambassador pointed to the significance of Sheinin's access to the Ministers of Justice and Foreign Affairs, who, while apparently not thrilled by the process, had pledged continued cooperation.

13 (C) During a January 25 dinner, lawyer Mokhtar Trifi, who met with Sheinin in his capacity as President of the Tunisian League for Human Rights, told Pol-Econ Counselor he was concerned the GOT would misrepresent the objectives and findings of Sheinin's visit to score public relations "points" without regard to the dismal realities. Subsequently, Tunisia's pro-government media did indeed present Sheinin's brief public comments as an unqualified endorsement for Tunisia's success in balancing human rights and the fight against terror.

¶14. (C) Comment: While the press's disingenuous spin was typical and predictable, the GOT's acceptance of Sheinin, and its tangible, if unenthusiastic, cooperation with him, represent a step forward on a long road toward improved human rights practices in Tunisia. End comment.

GRAY